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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/110,103	07/01/1998	MICHAEL C. POWERS	019143.0272	4295
7590	02/03/2004		EXAMINER	
TERRY J STALFORD BAKER & BOTTS 2001 ROSS AVENUE DALLAS, TX 752012980			IRSHADULLAH, M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/110,103	POWERS ET AL.
	Examiner	Art Unit
	M. Irshadullah	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
- 4) Interview Summary (PTO-413) Paper No(s) _____ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. This communication is in response to the Appeal Brief filed November 11, 2003.

Summary Of Instant Office Action

2. Applicant's arguments regarding claims 1-17 rejected under U.S.C. 103, Paper No. 27, Office Action mailed August 13, 2003 have been fully considered and are responded below.
3. Amendments to claims 1, 3, 4, 7, 9, 11-15 and 17 have been entered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Janovski et al (US Patent 5,726,914).

Janovski et al disclose:

Claim 1. A computer-implementable method for importing external productivity data into a performance evaluation system, comprising:

a) storing a plurality of user-defined data elements for an evaluation process (Col. 4, lines 5-37 recited with col. 1, lines 9-10 and Table1), wherein “The prompts requesting the user to supply and user inputting requisite data in the configuration table, lines 5-7, inferring “data items are defined by the user {user-defined data}” and reference relating to performance analysis or evaluation procedure or process as indicated by steps of “data gathering-line 31”, “transferring gathered data into performance-lines 31-32”, “determining levels of performance-lines 35-37” etc., which a user would use for analyzing or evaluating said a number or plurality of user entered or defined data as depicted in rows and columns of cited Table 1);

b) storing a user-defined configuration table for a third party data file comprising external productivity data, the configuration table associating external productivity items in the third party data file with the user defined data elements (Table 1, Col. 4, lines 23-24 read with lines 2-7, col. 9, line 36 through col. 10, line 46, wherein “Table 1” representing “configuration table” and as discussed above “entering or defining data items of Table1 by the user” is indeed “defining the configuration Table 1 itself”, since the table becomes useable after user enters {or defines} said data items in it (Col. 4, lines 26-49), citation of “coupling data collection circuit 122 to distributed computer

systems for supplying necessary data-col. 9, lines 36-40" indicating that reference is capable of functioning as networked system connected to various other computers within or outside the reference system as shown in Fig. 3, described col. 9, lines 46-60; reference gathering or retrieving or importing data, col. 9, lines 46-48, through "other types of circuit systems-lines 58-60" pointing to LAN, WAN, Intranet, Internet etc.. The outside computers or devices representing "third party" computers or devices, comprising circuit 124 through which 122 collecting or importing or retrieving data relating to a circuit {making} factory customers-col. 9, lines 48-50, circuit 126 through which 122 collecting, importing or retrieving customer data relating to maintenance of a system-col. 9, lines 51-52, circuit 128 via which 122 collecting or retrieving or importing customer data in respect of time and attendance-col. 9, lines 52-55, circuit 125 via which 122 importing or collecting or retrieving customer data in respect of accounting-col. 9, lines 57-58 and circuit 123 through which 122 collects or imports or retrieves data about production of a factory-col. 9, lines 55-56, also exemplified in Fig. 12, described col. 9, line 66 through col. 10, line 23. The foregoing discussion clearly indicating the reference system's capability to communicating {sending and receiving or importing or retrieving} data or data file {in database jargon, data are stored in some format including file, table or list format} which is external since data or data file are coming from entities, devices or sources outside or external {third party} to the reference system. The data or data file coming or importing from above discussed outside computers, devices or sources relating to various works performed, such as "calls made by the customer and returned to the customer, col. 9, lines 32-36, data relating to customer or worker

working in a circuit making factory, customer or worker data relating to workers working in production factory etc." clearly indicating "productivity or external productivity data" of people and/or machines functioning in customer service and other places. Furthermore, recitation of "circuit 134 receiving records, associating them with review data and converting them into bar graph-col. 10, lines 44-46" clearly inferring the availability of "associating" function which a user would use for claimed purpose. Moreover, graphing in itself indicating provision of a function for "associating" two or more values or data elements relating to or coming from various sources including above discussed external productivity data items in third party data file and user defined data elements);

c) mapping external productivity data items from the third party data file to the data elements based on the configuration table (Col. 4, line 7, col. 9, lines 32-40, wherein above discussed "storing" inferring "mapping", since in computer data or data elements are stored or mapped in computer memory or database in an area or address or space specified for that data or data element. See discussion about "external productivity data or data elements or items", "third party data file" in 1b) above. Moreover, a user would use "storing or mapping" function for storing or mapping forementioned data elements or items belonging to above discussed third party data file in accordance to above discussed configuration table); and

d) inserting the external productivity data items into a plurality of productivity tables based on the mapping of the external productivity data items to the data elements, the external productivity data items inserted into the productivity tables capable of being used to calculate productivity scores for the evaluation process (Fig. 2,

described col. 3, lines 55-62, wherein “gathering and storing” performance data {or as discussed above, external productivity} into configuration table {col. 3, lines 61-62} inferring “inserting”, said gathering and storing {or inserting} is performed in accordance with {based on} mapping discussed in the previous element or step, “circuit 114 configuring configuration table- or a list of parameters” indicating inserting said data elements or items into tabular format or tables, and the stored {or inserted} data is used by above discussed “performance analysis or evaluation process” to producing performance, such as calls resolved, percentages {productivity scores}, col. 7, lines 26-28 and Figs. 8-11).

Claim 2. The method of Claim 1, the configuration table further operable to associate a data item with a member of the performance evaluation system (Col. 4, lines 26-28, wherein Table 1 is a “configuration table” and depicts requisite correspondence {or association} of various data items {24 hour 100%} with member {backlog}, col. 5, lines 25-28).

Claim 3. The method of Claim 1, wherein the third party data file is a delimited file (Table 1, wherein spaces between data items or elements are delimiters; i.e., Table 1 shows “delimited file” and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 4. The method of Claim 1, wherein the third party data file is not a delimited file and further comprising:

a) storing a preprocessor file operable to generate a delimited file from the third party data file (Col. 4, lines 23-24 and 26-29, wherein cited Table 1 comprising algorithm, such as “Backlog-col. 9, line 19”, is a “processor file” and when executed produces a delimited table {or file}, col. 6, lines 19-24 read with lines 28-29 and col. 3, lines 32-34, and see discussion about “third party” in Applicant’s claim 1b) above); and
b) using the preprocessor file to generate the delimited file from the third party data file (See discussion in a) above, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 5. The method of Claim 1, further comprising the configuration table operable to identify a type for each of the data items (Col. 4, lines 42-49, wherein “identifying algorithm” and “categorizing” gathered customer data inferring the claimed feature, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 6. The method of Claim 1, further comprising the configuration table operable to identify a format for each of the data items (Col. 4, lines 42-49, wherein “converting” and categorizing” customer data infer “identifying the format of data elements (or items)” so that said data element is converted and then placed into requisite category, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 7. A computer- implementable performance evaluation system, comprising:

a) a first database table operable to store a plurality of user-defined data elements for an evaluation process (Col. 4, lines 23-24 and Fig. 2 {116}, wherein table database 116 representing first database and see the discussion about “user-defined data items or elements” and “evaluation process” in claim 1a) above);

b) a second database table operable to store configuration information for importing a third party data file comprising external productivity data into the performance evaluation system, the configuration information associating external productivity data items in the third party data file with user defined data elements (Fig. 2 {113}, col. 3, lines 55-58, wherein “library 113” is another or “second database or database table” and see the discussion about “configuration table comprising configuration data or information”, “third party data file”, “external productivity data” and “associating third party data file elements or items and used defined data element or items” in Applicant’s claim 1b) above).

c) a third database table operable to store productivity data, at least a portion of the productivity data comprising external productivity data items inserted into the third database table based on the mapping of the external productivity data items to the data elements, the productivity data capable of being used to calculate productivity scores for the evaluation process (Col. 6, lines 43-51, wherein “storing callback status in a callback metric” infers the provision of one more storing table {or third database table} and see the discussion of Applicant’s claims 1c) and 1d) above);

Claim 8. The performance evaluation system of Claim 7, further comprising a configuration including the configuration information and an identifier for associating a data item to a member of the performance evaluation system (See the discussion of claim 2 above).

Claim 9. The method of Claim 1, further comprising receiving the third party data file from an external device (Col. 9, lines 36-40, wherein “122 coupled to another computer, specifically ‘a distributed system’” inferring Janovski et al system’s capability of communicating {sending, retrieving, importing or receiving}, data {or data file from outside or external} machines {or devices}, and see discussion about “third party” in Applicant’s claim 1b) above),

Claim 10. The method of Claim 9, wherein the external device comprises a telephony switch (Col. 9, lines 36-40, wherein “122 coupled to another computer”, wherein cited “another computer” encompasses a device having the configuration and capability of or coupled to a computer including “telephony switch” with said qualification).

Claim 11. The system of Claim 7, wherein the third party data file is a delimited file (See discussion of claim 3 above, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 12. The system of Claim 7, wherein the third party data file is not a delimited file and further comprising a preprocessor file operable to generate a delimited file from the data file (See discussion of claim 4b) above, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 13. The system of Claim 7, the configuration information operable to identify a type for each of the data items (See discussion of Applicant’s claim 5 above).

Claim 14. The system of Claim 7, the configuration information operable to identify a format for each of the data items (See discussion of Applicant’s claim 6 above).

Claim 15. The system of Claim 7, wherein the third party data file is received from an external device (See discussion of claim 9 above, and see discussion about “third party” in Applicant’s claim 1b) above).

Claim 16. The system of Claim 15, wherein the external device comprises a telephony switch (See discussion of Applicant’s claim 10 above).

Claim 17. (Amended) A computer-implementable method for importing external productivity data into a performance evaluation system, comprising:

a) storing a plurality of user-defined data elements for an evaluation process

(See discussion of Applicant's claim 1a) above);

b) storing a user-defined configuration table for a third party data file comprising external productivity data, the configuration table associating external productivity data items in the third party data file with the user defined data elements and operable to associate a data item with a member of the performance evaluation system, to identify a type for each of the data items, and to identify a format for each of the data items (See discussions of Applicant's claims 1b, 2, 5 and 6 above);

c) receiving the third party data file from an external device, the external device comprising a telephony switch (See discussion of Applicant's claims 9 and 10 above);

d) mapping external productivity data items from the third party data file to the data elements based on the configuration table (See discussion of Applicant's claim 1c) above); and

e) inserting the external productivity data items into a plurality of productivity tables based on the mapping of the external productivity data items to the data elements, the external productivity data items inserted into the productivity tables capable of being used to calculate productivity scores for the evaluation process (See discussion of Applicant's claim 1d) above).

Response to Arguments

7. Applicant's arguments filed November 11, 2003 have been fully considered and are responded below.

In the Remarks Applicant argues that:

a) Janovski et al do not teach:

- 1) "storing a user-defined configuration table for a third party data file comprising external productivity data", or
- 2) "mapping external data productivity data items from the third party data file to the data elements based on the configuration table".

In regard to 1) above, Applicant is referred to Janovski et al's Table 1, Col. 4, lines 23-24 read with lines 2-7, col. 9, line 36 through col. 10, line 46, wherein "Table 1" representing "configuration table" and as discussed above "entering or defining data items of Table1 by the user" is indeed "defining the configuration Table 1 itself", since the table becomes useable after user enters {or defines} said data items in it (Col. 4, lines 26-49), citation of "coupling data collection circuit 122 to distributed computer systems for supplying necessary data-col. 9, lines 36-40" indicating that reference is capable of functioning as networked system connected to various other computers within or outside the reference system as shown in Fig. 3, described col. 9, lines 46-60; reference gathering or retrieving or importing data, col. 9, lines 46-48, through "other types of circuit systems-lines 58-60" pointing to LAN, WAN, Intranet, Internet etc.. The outside computers or devices representing "third party" computers or devices, comprising circuit 124 through which 122 collecting or importing or retrieving data relating to a circuit {making} factory customers-col. 9, lines 48-50, circuit 126 through which 122 collecting, importing or retrieving customer data relating to maintenance of a system-col. 9, lines 51-52, circuit 128 via which 122 collecting or retrieving or importing

customer data in respect of time and attendance-col. 9, lines 52-55, circuit 125 via which 122 importing or collecting or retrieving customer data in respect of accounting-col. 9, lines 57-58 and circuit 123 through which 122 collects or imports or retrieves data about production of a factory-col. 9, lines 55-56, also exemplified in Fig. 12, described col. 9, line 66 through col. 10, line 23. The foregoing discussion clearly indicating the reference system's capability to communicating {sending and receiving or importing or retrieving} data or data file {in database jargon, data are stored in some format including file, table or list format} which is external since data or data file are coming from entities, devices or sources outside or external {third party} to the reference system. The data or data file coming or importing from above discussed outside computers, devices or sources relating to various works performed, such as "calls made by the customer and returned to the customer, col. 9, lines 32-36, data relating to customer or worker working in a circuit making factory, customer or worker data relating to workers working in production factory etc." clearly indicating "productivity or external productivity data" of people and/or machines functioning in customer service and other places. Furthermore, recitation of "circuit 134 receiving records, associating them with review data and converting them into bar graph-col. 10, lines 44-46" clearly inferring the availability of "associating" function which a user would use for claimed purpose. Moreover, graphing in itself indicating provision of a function for "associating" two or more values or data elements relating to or coming from various sources including above discussed external productivity data items in third party data file and user defined data elements.

In respect of 2) above, Applicant is directed to Janovski et al's Col. 4, line 7, col. 9, lines 32-40, wherein above discussed "storing" inferring "mapping", since in computer data or data elements are stored or mapped in computer memory or database in an area or address or space specified for that data or data element. See discussion about "external productivity data or data elements or items", "third party data file" in 1) above. Moreover, a user would use "storing or mapping" function for storing or mapping forementioned data elements or items belonging to above discussed third party data file in accordance to above discussed configuration table.

b) Same reasoning holds for claims 7 and 17.

In the light of above mentioned facts, it is stated that Applicant's arguments have been fully considered, deemed unpersuasive and prior rejection is maintained.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Irshadullah whose telephone number is (703) 308-6683. The examiner can normally be reached on M-F from 11:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax numbers for the organization are (703) 872-9326 for Non-Final and for Final (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3900.

M. Irshadullah

January 15, 2004

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600